

Administrative Office of the Courts

Chief Justice Richard C. Howe
Chairman, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Justice Court Judges
From: *Bf* Brent Johnson, General Counsel
Re: Warrant or Transportation Fees
Date: February 9, 2000

An issue concerning warrant fees was recently raised again and it was suggested that a memo to all justice court judges might be appropriate to again dress this issue. The issue concerns warrant fees and/or fees of law enforcement officers for serving warrants or transporting prisoners.

As a general rule, a court or a governmental entity may not charge any fee unless the fee is specifically provided for by statute. Up until approximately 1991, courts and law enforcement officers were able to impose a warrant fee in the amount of \$85.00 to cover the costs of serving warrants. However, the warrant fee was eliminated and we may no longer charge such a fee.¹ Occasionally, the warrant fee issue arises like a B-movie monster -just when you think it is dead, it begins to threaten again. It is apparently becoming the practice in certain areas for local police departments to charge a fee for serving a warrant. In some cases, the police department is requesting that the court add the fee to the defendant's fine. In other cases, the police department is simply charging the court. Both scenarios present some problems.

As already noted, there is no provision in statute which allows a municipality or a court to charge a defendant a warrant service fee. While there are provisions that allow a court to increase bail when a defendant fails to appear, resulting in a warrant being issued, the increased bail and subsequent fine cannot be treated as a separate fee, but must be treated in all ways as a fine when it is collected. The law enforcement entity cannot receive a particular fee for its services. We cannot add a warrant fee to the defendant's fine. There is a provision in statute which allows a court to add transportation costs to a person's sentence, but this does not include a flat fee for simply serving a warrant.

¹The elimination of the warrant fee was part of a larger financial bill which intended to make up for the lost revenue through other means.

**The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.**

There is also a problem with a law enforcement entity simply charging a court for the services that it performs. Utah Code Ann. § 21-7-2 generally prohibits one government entity from charging another government entity for performing the work that the first entity should already be doing. While this statute is somewhat ambiguous, I believe that it raises a significant question as to whether a municipal law enforcement entity may charge the court for performing law enforcement services. There are various issues which come into play and if you are interested in pursuing this issue you should consult your local legal advisor. There may be issues as to whether the statute applies and whether it may be waived.

Please let me know if you have any questions about this matter.